APPENDIX A.

STATE OF LOUISIANA
COURT OF APPEAL
FOURTH CIRCUIT

No. 3302.

JOHN R. HUGHES

versus

FRANK STANDIDGE & FRED JOURDAN

Appeal from the Civil District Court for the Parish of Orleans, State of Louisiana, No. 445-371, Division "H", Honorable Oliver P. Carriere, Judge.

LOUIS H. YARRUT, Judge.

Feb. 3, 1969.

(Court composed of Judges Godfrey Z. Regan, Louis H. Yarrut and William V. Redmann)

REED, REED & REED
FLOYD J. REED
for Plaintiff-Appellee

ALVIN J. LISKA, City Attorney
BEUKER F. AMANN, First Assistant City Attorney
JACKSON P. McNEELY, Assistant City Attorney
for Frank Standidge, Defendant-Appellant

AMENDED AND, AS AMENDED, AFFIRMED.

Plaintiff brought this suit against the Defendants, members of the New Orleans Police Department, to recover damages arising from an alleged false arrest and malicious prosecution. After a trial by Jury, there was judgment in favor of Office Jourdan, dismissing Plaintiff's suit against him; and in favor of Plaintiff against Lt. Standidge in the sum of $5,000.00, with interest and costs. Lt. Standidge has taken this appeal.

At the outset this Court emphasizes that public law enforcement officers acting with probable cause and without malice are not liable in damages for making an arrest. Barfield v. Marron, 222 La. 210, 62 So. 2d 276 (1952). No police officer should ever fear that doing his duty as he in good faith reasonably sees it will subject him to liability. We have reviewed this case with that principle prominently in mind.

Certain facts are not in dispute, to-wit: Plaintiff was a contractor engaged in the moving of a house from 2501 Spain Street to 906 Flood Street, in New Orleans, on the morning of April 24, 1965; that he had a valid permit from the City of New Orleans to move the dwelling between midnight and 6 o'clock a.m. on the aforementioned date; that, at approximately 1 o'clock a.m., the house had been moved to the 900 block of Flood Street, in front of the lot on which it was to be located, and remained on the street for approximately four hours until the crew obtained boards to lay across the gutter so the house could be moved across it; that, at approximately 4:30 o'clock a.m., Plaintiff was arrested by Appellant and taken by Officer Jourdan and his partner to the Police Station where he was booked with violation of

Sec. 42-22 of the Code of the City of New Orleans—Disturbance by intoxication or otherwise.

Several days later, Officer Jourdan filed an affidavit with the Clerk of the Criminal District Court accusing Plaintiff of violation of LSA-R.S. 14:97, concerning obstruction of a highway of commerce. The District Attorney for the Parish of Orleans, acting on the information contained in the affidavit, filed a bill of information charging Plaintiff with highway obstruction. Eventually the charge of disturbing the peace was dismissed in Municipal Court, and the District Attorney nol-prossed the charge of highway obstruction.

There is a conflict in the testimony regarding the circumstances under which Plaintiff was arrested. Appellant testified Plaintiff was arrested because he became loud and boisterous when questioned about when the house would be moved from the street. On the other hand, Plaintiff testified Appellant demanded the house be moved immediately and that, when he explained that this could not be done because the boards were not in place, Appellant grabbed him by the seat of his pants and dragged him to the patrol car.

The Jury obviously accepted Plaintiff's version of the incident. We find no manifest error in that determination.

There is some confusion concerning the exact amount of time Plaintiff was forced to spend defending himself against the criminal charges. Plaintiff testified he spent about a half-hour at the Police Station while he was being

booked and furnishing a $25.00 bond; and an additional twenty minutes at the Criminal District Court signing a bond in connection with the highway obstruction charge.

Plaintiff further testified that he had never appeared in any court in connection with the incident. However, Appellant testified that Plaintiff was in Municipal Court when first charged with disturbing the peace. Because this latter statement seems logical and a review of Plaintiff's testimony suggests that he was only referring to obstructing the highway charge, we conclude Plaintiff appeared in Municipal Court at least once in connection with the peace disturbing charge.

There is no doubt Plaintiff was the victim of a false arrest, and was not engaged in unlawful conduct at the time of his arrest.

There was obviously no substance to either of the charges brought against Plaintiff. However, we find Appellant was not guilty of malicious prosecution. In his petition Plaintiff alleges that Officer Jourdan signed the affidavit charging him with obstruction of a public highway. At the trial, Officer Jourdan testified that he made the complaint of his own volition. Furthermore, it was the District Attorney, not Appellant, who accepted the charge and conducted the prosecution.

Plaintiff seeks the following amounts for the damages he suffered:

"Defamation of character	$ 100,000.00
False arrest	100,000.00
Malicious prosecution	100,000.00
Humiliation and embarrassment	100,000.00
Worry and inconvenience	100,000.00
Mental anguish	100,000.00
Malice	100,000.00
Trouble and inconvenience incurred in having to bring this suit	300,000.00
TOTAL	$1,000,000.00"

As stated before, Appellant cannot be held liable for malicious prosecution but only the damages which were the result of his false arrest. The above includes humiliation and embarrassment, worry and inconvenience, and mental anguish.

In Wilde v. Schwegmann Bros. Giant Supermarkets, Inc., 160 So. 2d 839, this Court had occasion to consider quantum in connection with the aforementioned elements of damage. In the cited case, a woman patron was accused of shoplifting. She was forced to accompany a store detective to a windowless room, with no place for her to sit. Her request to call either the Police or her husband was denied and, finally, because she was late in performing an important errand she was harrassed (sic) into signing a false confession after 30 minutes of interrogation. After her release, she returned home where she became hysterical and had to have medication. Later, she accompanied the Police to the store but the personnel there refused to return her "confession." While the amounts awarded in earlier cases for false arrest (from $100 to $750) are unrealistic today, we reduced the quantum in the cited case from $2,500.00 to $1,500.00.

Although Plaintiff did spend more time in connection with the false arrest, there is no evidence he endured the degree of mental anguish that the woman patron in the cited case suffered. Therefore, we find that an award of $1,500.00 to be adequate in the instant case.

For the above reasons, the judgment appealed from is amended to reduce the award from $5,000.00 to $1,500.00; otherwise, the judgment is affirmed; each party to pay his own costs on appeal.

AMENDED AND, AS AMENDED, AFFIRMED.

APPENDIX B.

LOUISIANA CONSTITUTION

Art. 7 § 11 Certiorari and other writs to courts of appeal; time; judgment of court appeal

Section 11. It shall be competent for the Supreme Court to require by writ of certiorari, or otherwise, any case to be certified from the Courts of Appeal to it for review, with the same power and authority in the case as if it had been carried directly by appeal to the said court; provided, that where the application is based solely upon the ground that the decision of the question of law involved is in conflict with the jurisprudence of the Supreme Court or another Court of Appeal upon a question not yet decided by the Supreme Court, and it is found that such is the fact, then the application shall be granted as a matter of right; provided, however, that the Supreme Court shall in no case exercise the power conferred by this Article unless the application shall have been made to the court or to one of the justices thereof within thirty days after a rehearing shall have been refused by the Court of Appeal; and provided further, that the judgment of the Court of Appeal shall not become executory until the expiration of thirty days; or, in cases in which application is made for the writ of review, or other writs, until the decision of the Supreme Court upon the application shall have become final.

Art. 7, § 29 Appellate and supervisory jurisdiction

Section 29. Any provision of this Constitution or law to the contrary notwithstanding, the courts of appeal have appellate jurisdiction of the following cases of which the Supreme Court is not given appellate jurisdiction under Article VII, Section 10 of this

Constitution; all matters appealed from the family and juvenile courts, except criminal prosecutions against persons other than juveniles; all civil and probate matters of which the district courts throughout the state have exclusive original jurisdiction; and all civil matters involving more than one hundred dollars, exclusive of interest, of which the district courts throughout the state have concurrent jurisdiction.

All appeals of which the courts of appeal have appellate jurisdiction as provided in this Section shall be on both the law and the facts, except where the appeal is limited to questions of law only by any other Section of this Constitution.

Each court of appeal has supervisory jurisdiction, subject to the general supervisory jurisdiction of the Supreme Court, over all inferior courts in all cases in which an appeal would lie to the court of appeal.

Art. 7 § 41 Selection of jurors; women jurors; trial by judge; trial by jury

Section 41. The Legislature shall provide for the election and drawing of competent and intelligent jurors for the trial of civil and criminal cases; provided, however, that no woman shall be drawn for jury service unless she shall have previously filed with the clerk of the District Court a written declaration of her desire to be subject to such service. All cases in which the punishment may not be at hard labor shall, until otherwise provided by law, be tried by the judge without a jury. Cases, in which the punishment may be at hard labor, shall be tried by a jury of five, all of whom must concur to render a verdict; cases, in which the punishment is necessarily at hard labor, by a jury of twelve, nine of whom must concur to render a verdict; cases in which the punishment may be capital, by a jury of twelve, all of whom must concur to render a verdict.

CODE OF CIVIL PROCEDURE

SECTION 1. RIGHT TO TRIAL BY JURY

Art. 1731. Issues triable by jury

Except as limited by Article 1733, the right of trial by jury is recognized.

The nature and amount of the principal demand shall determine whether any issue in the principal or incidental demand is triable by jury.

Art. 1732. Demand for jury trial

A party may demand a trial by jury of any issue triable of right by a jury in a pleading filed not later than ten days after the service of the last pleading directed to such issue.

Art. 1733. Limitation upon jury trials

A trial by jury shall not be available in:

(1) A suit demanding less than one thousand dollars exclusive of interest and costs;

(2) A suit on an unconditional obligation to pay a specific sum of money, unless the defense thereto is forgery, fraud, error, want or failure of consideration;

(3) A summary, executory, probate, partition, mandamus, habeas corpus, quo warranto, injunction, concursus, workmen's compensation, emancipation, tutorship, interdiction, curatorship, legitimacy, filiation, separation from bed and board, annulment of marriage, or divorce proceedings;

(4) A proceeding to review an action by an administrative or municipal body; and

(5) All cases where a jury trial is specifically denied by law.

Art. 1734. Specification of issues

In his demand a party may specify the issues which he wishes to be tried by jury; otherwise he shall be considered to have demanded trial by jury for all the issues so triable. If he has demanded trial by jury for only some of the issues, any other party, within ten days after service of the demand or such lesser time as the court may order, may demand trial by jury of any or all of the other issues in the action.

Art. 1735. Trial of less than all issues; stipulation

The trial of all issues for which jury trial has been requested shall be by jury unless the parties stipulate that the jury trial shall be as to certain issues only, or unless the right to trial by jury as to certain issues does not exist, but in all cases there shall be but one trial.

SECTION 2. SELECTION OF JURY

Art. 1751. Qualification and exemptions of jurors

The qualification and exemptions of jurors and the method of choosing and summoning the general venire in jury cases are provided by special laws.

SECTION 3. PROCEDURE FOR CALLING AND EXAMINING JURORS

Art. 1761. Procedure in general

In cases to be tried by jury, twelve jurors summoned in accordance with law shall be chosen by lot to try the case. The method of calling and drawing by lot shall be at the discretion of the court. The parties may stipulate for a lesser number of jurors to try the case; or that if one or more of the jurors dies or becomes disqualified the remaining jurors shall try the case.

Art. 1762. Swearing of juror before examination

Every prospective juror, before being examined, shall be sworn to answer truthfully such questions as may be propounded to him.

Art. 1763. Examination of juror

The court shall permit the parties or their attorneys to conduct the examination of a prospective juror and may itself conduct an examination, which shall be limited to ascertaining the qualifications of the juror.

Art. 1764. Peremptory challenges

Each side is allowed six peremptory challenges. If there is more than one party on any side, the court may allow each side additional peremptory challenges, not to exceed four. Each side shall be allowed an equal number of peremptory challenges. If the parties on a side are unable to agree upon the allocation of peremptory challenges among themselves, the allocation shall be determined by the court before the examination on the voir dire.

Art. 1765. Challenges for cause

A juror may be challenged for cause based upon any of the following:

(1) When the juror lacks a qualification required by law;

(2) When the juror has formed an opinion in the case or is not otherwise impartial, the cause of his bias being immaterial;

(3) When the relations whether by blood, marriage, employment, friendship, or enmity between the juror and any party or his attorney are such that it must be reasonably believed that they would influence the juror in coming to a verdict;

(4) When the juror served on a previous jury, which tried the same case or one arising out of the same facts;

(5) When the juror refuses to answer a question on the voir dire examination on the ground that his answer might tend to incriminate him.

Art. 1766. Time for peremptory challenge

After the entire jury has been accepted and sworn, no party has the right to challenge peremptorily.

Art. 1767. Challenging or excusing jurors after acceptance

Although the entire jury may have been accepted and sworn, up to the beginning of the taking of evidence, a juror may be challenged for cause by either side or be excused either for cause or by consent of both sides, and the panel completed in the ordinary course.

Art. 1768. Swearing of jurors; selection of foreman

When the jury has been accepted by all parties, the jurors shall be sworn to try the case in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence. When the jury has retired, the jurors shall select a foreman to preside over them and sign the verdict which they may render.

Art. 1769. Alternate jurors

The court may direct that one or two jurors in addition to the regular panel be called and empanelled to sit as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the principal jurors. An alternate juror who does not replace a principal juror shall be discharged when the jury retires to consider its verdict. If one or two alternate jurors are called, each side shall have an equal number of peremptory challenges. The court shall determine how many challenges shall be allowed and shall allocate them among the parties on each side. The additional peremptory challenges may be used only against an alternate juror, and the other peremptory challenges allowed by law shall not be used against the alternate jurors.

SECTION 4. PROCEDURE IN JURY TRIALS

Art. 1791. Time for charging the jury; recordation of charge

After the trial of the case and the presentation of all the evidence and arguments, the court shall charge the jury in accordance with law. This charge shall be in writing or recorded in the same manner as testimony taken in the case.

Art. 1792. Contents of charge to jury

In his charge to the jury the judge shall instruct the jurors on the law applicable to the cause submitted to them, but he shall not recapitulate or comment upon the evidence so as to exercise any influence upon their decision as to the facts.

Art. 1793. Instruction to jury; objections

At the close of the evidence or at an earlier time during the trial as the court reasonably directs, a party may file written requests that the court instruct the jury on the law as set forth in the requests. The court shall inform counsel of its proposed action upon the requests prior to their arguments to the jury.

A party may not assign as error the giving or the failure to give an instruction unless he objects thereto before the jury retires to consider its verdict, stating specifically the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury.

Art. 1794. Taking evidence to jury room

In reaching a verdict the jurors must rely upon their memories, and, when they retire from the jury room to deliberate, they shall not be allowed access to any written evidence or to any notes of the testimony of any witness, but they may take with them any object or document received in evidence which requires a physical examination to enable them to arrive at a just conclusion.

Art. 1795. Number required for verdict; stipulation

In order to render any verdict, nine of the jurors must concur therein. The parties may stipulate, however, that the concurrence of a stated majority of the jurors shall be sufficient for a verdict, and must do so when they have stipulated for a trial by a lesser number in accordance with Article 1761.

SECTION 5. VERDICTS

Art. 1811. Special verdicts

The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer, or may submit written forms of the several special findings which might properly be made under the pleadings and evidence, or may use any other appropriate method of submitting the issues and requiring the written findings thereon. The court shall give to the jury such explanation and instruction concerning the matter submitted as may be necessary to enable the jury to make its findings upon each issue. If the court omits

any issue of fact raised by the pleadings or by the evidence, each party waives his right to a trial by jury of the issue omitted unless, before the jury retires, he demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be presumed to have made a finding in accord with the judgment on the special verdict.

Art. 1812. General verdict accompanied by answer to interrogatories

The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict.

When the general verdict and the answers are harmonious, the court shall direct the entry of the appropriate judgment upon the verdict and answers.

When the answers are consistent with each other but one or more is inconsistent with the general verdict, the court may direct the entry of judgment in accordance with the answers, notwithstanding the general verdict, or may return the jury for further consideration of its answers and verdict, or may order a new trial.

When the answers are inconsistent with each other and one or more is likewise inconsistent with the general

verdict, the court shall not direct the entry of judgment but may return the jury for further consideration of its answers or may order a new trial.

Art. 1813. Remittitur or additur as alternative to new trial; reformation of verdict

If the trial court is of the opinion that the verdict is so excessive or inadequate that a new trial should be granted for that reason only, it may indicate to the party or his attorney within what time he may enter a remittitur or additur. This remittitur or additur is to be entered only with the consent of the plaintiff or the defendant as the case may be, as an alternative to a new trial, and is to be entered only if the amount of the excess or inadequacy of the verdict or judgment can be separately and fairly ascertained. If a remittitur or additur is entered, then the court shall reform the jury verdict or judgment in accordance therewith.

Art. 1814. New trial on showing of misconduct by jury

A new trial shall be granted if it be proved that the jury was bribed or has behaved improperly so that impartial justice has not been done.

APPENDIX C.

STATE OF LOUISIANA
COURT OF APPEAL
FOURTH CIRCUIT

No. 3302

JOHN R. HUGHES,
Plaintiff and Appellee,

versus

FRANK STANDIDGE, et al.,
Defendants and Appellants.

APPLICATION OF JOHN R. HUGHES FOR A REHEARING

REED, REED & REED
Attorney for Plaintiff
9th Floor-Maison Blanche Building
New Orleans, Louisiana
FLOYD J. REED, TRIAL ATTORNEY

TO THE COURT OF APPEAL, FOURTH CIRCUIT, STATE OF LOUISIANA:

Plaintiff-appellee, John R. Hughes, with respect petitions the Court to grant him a rehearing on the case with particular reference to the opinion and decree of the Court of Appeal, Fourth Circuit rendered on February 3, 1969, for the reasons set forth hereinafter.

The Court of Appeal, Fourth Circuit, State of Louisiana, seriously and grievously erred in the opinion and decree of February 3, 1969, when it held the defendant, Lt. Frank Standidge, the Platoon Commander of the Fifth District Police Station, to be guilty of false arrest and all that is necessarily implied in the finding of guilty of false arrest on the one hand, and then holding, particularly in view of the fact that there were two prosecutions against the plaintiff, one of which was certainly unnecessary, that the defendant, Standidge, was not guilty of malicious prosecution is wholly untenable and inconsistent with the findings of fact made by the Court of Appeal in its opinion and decree of February 3, 1969.

A. The Court found the evidence to support the conclusion that the plaintiff was acting lawfully at all times about which the law suit is concerned.

B. The Court found the jury to have accepted the plaintiff's version of such evidence as might have been in dispute.

C. The Court found the evidence to support the contention that Jourdan was the subordinate of Lt. Standidge, the Platoon Commander of the Fifth District of the New Orleans Police.

D. The Court found that Lt. Standidge, the Platoon Commander, was guilty of false arrest.

E. The Court found that the evidence showed that there was no substance to either the Municipal Court charge against the plaintiff or the charge lodged in the Criminal District Court.

F. The Court found the evidence to support the contention that the plaintiff was arrested by Lt. Standidge without probable cause and with malice.

G. The Court, therefore, having found the evidence to support the proposition that Standidge, an experienced Police Lieutenant, Platoon Commander of the Fifth New Orleans Police District, was guilty of false arrest, was guilty of malice, was the superior officer of Officer Jourdan, that Standidge was actuated by malice at all times and the undisputed fact that two charges were made against the plaintiff, in two different Courts, when one charge would have been sufficient, even if well founded, undisputably supports the position that Lt. Standidge as the superior officer of Officer Jourdan, was guilty of malicious prosecution of the plaintiff.

2.

As pointed out in the opinion of the Court of February 3, 1969, plaintiff sought the following amounts for the damages he suffered:

"Defamation of character	$ 100,000.00
False arrest	100,000.00
Malicious prosecution	100,000.00
Humiliation and embarrassment	100,000.00
Worry and inconvenience	100,000.00
Mental anguish	100,000.00
Malice	100,000.00
Trouble and inconvenience incurred in having to bring this suit	300,000.00
TOTAL	$1,000,000.00"

3.

As was pointed out in the brief filed on behalf of the plaintiff-appellee, your applicant herein, the Court of Appeal, Fourth Circuit, State of Louisiana has recognized the principal of law in *Talley v. Employers Mutual Liability Assurance Company, (CCA 4)*, 181 So. 2d. 784, that a plaintiff who suffered damages consisting of several items, in several legal categories, is entitled to have each category or item compensated individually, just as if each item of injury had been suffered by different individuals.

4.

The jury was charged that they could find damages on the first seven items enumerated but the Trial Court refused to charge the jury with respect to the eighth item or legal category of damages sought by the plaintiff. Therefore, the jury was instructed that they could award damages on seven legal categories. The jury found a verdict for the plaintiff in the amount of $5,000.00 which, as pointed out in brief, was

substantially less than $1,000.00 for damages in each category so that notwithstanding that the plaintiff received a verdict in his favor, it was nevertheless an extremely low verdict.

5.

It was therefore serious and substantial error for the Court of Appeal to find the verdict of the jury to be excessive under any circumstances whatsoever.

A. However, in erroneously reducing the verdict of the jury in favor of the plaintiff to $1500.00, the Court of Appeal first found the defendant not to have been guilty of malicious prosecution which, as we have stated was error. Conceding for the sake of argument only that the Court of Appeal was not in error in finding that the defendant was not guilty of malicious prosecution, the Court of Appeal still committed grievous error in reducing the quantum first, because it has no legal right to do so in a jury case, and secondly, because based upon the findings of fact contained in the opinion and decree of February 3, 1969, the findings of the Court of Appeal imminently support a verdict of $5,000.00.

B. The Court of Appeal found specifically that the plaintiff had suffered humiliation, embarrassment, worry, inconvenience and mental anguish. On page -4- of its opinion; and on page -3- of its opinion the Court found "There is no doubt plaintiff was the victim of a false arrest, and was not engaged in unlawful conduct at the time of his arrest.". This finding by the Court of Appeal that the defendant committed a false arrest necessarily implies a

finding of malice so that the seven items of damages upon which the Trial Jury was charged by the District Court have been found by the Court of Appeal, as matters of fact, amply supported by the evidence, to be actualities. $5,000.00 for damages in seven different categories is approximately $714.00 per legal category of damages and can by no stretch of the imagination be held to be abusive on the part of the jury.

C. It is once again pointed out to the Court of Appeal, Fourth Circuit, State of Louisiana that jury trials exist in Louisiana; that they are recognized in the State Constitution; that the Legislature has set forth in the Code of Civil Procedure a procedure for the conduct of jury trials which leaves no doubt that the Citizens of the State of Louisiana were intended by the Legislature of Louisiana to be accorded trial by jury in the traditional sense; that a traditional jury trial necessarily specifies and implies that no Court shall otherwise re-examine a jury verdict except to determine whether or not there exists credible evidence supporting the verdict. The Court of Appeal is strenuously urged to grant a rehearing from its opinion and decree of February 3, 1969, for the purpose of reinstating in its entirety the verdict of the jury for the reason, as set forth in the findings of fact in the opinion and decree of the Court of Appeal of February 3, 1969, there does in fact exist credible evidence amply supporting the verdict of the Trial Jury. Unless the Court of Appeal grants a rehearing and reinstates the verdict of the jury as the judgment of the Court the Court of Appeal, Fourth Circuit, State of Louisiana, will once again be adding fuel to the fire of controversy which exists in the State of Louisiana today relative to the weight and integrity which

must be accorded to jury verdicts by appellate courts, not only in the State of Louisiana but in the United States of America. The controversy to which your petitioner refers is the one raging in all four Circuits of the State of Louisiana where the Courts, and the individual Judges of the Courts, are in some degree in disagreement on just what constitutes the appellate function in the State of Louisiana; and more particularly, as to what constitutes the appellate function in jury trials. Petitioner does not mean to suggest that there is any venality or bad faith connected with this controversy but merely wishes to point out and emphasize what at least some of the members of the Court must know, e.g., the existence of the controversy referred to. Unless the Court of Appeal, Fourth Circuit, State of Louisiana grants a rehearing from its opinion and decree of February 3, 1969, and reinstates the verdict of the jury it will have effectively denied to the plaintiff herein as well as to the defendant the right to trial by jury as guaranteed by the Law of Louisiana and by *Amendments V, VII* and *XIV* of the *United States Constitution* effectively and functionally repudiating the jury and frustrating its intended function within the framework of our laws.

WHEREFORE, petitioner prays that a rehearing be granted in this case and that after due proceedings that the opinion and decree of the Court of February 3, 1969, be recalled and that a new opinion and decree be handed down by the full Court affirming the verdict of the jury and rejecting the demands of the defendant.

REED, REED & REED
Attorneys for Plaintiff, John R. Hughes
9th Floor—Maison Blanche Building
New Orleans, Louisiana, 70112
524-0238

FLOYD J. REED, Trial Attorney

STATE OF LOUISIANA
PARISH OF ORLEANS

Personally came and appeared before me the undersigned authority, Floyd J. Reed, who being sworn deposed and said that he is one of the Attorneys for the plaintiff in the foregoing Application for Rehearing and that all of the allegations of fact therein contained are true and correct to the best of his knowledge, information and belief.

. . . . . .
FLOYD J. REED

Sworn to and subscribed before me this . . . . day of February, 1969.

. . . . . .
Notary Public

CERTIFICATE.

I certify that a copy of the foregoing Application for Rehearing has been furnished the City Attorney of the City of New Orleans by United States Mail, postage prepaid, on this . . . day of February, 1969.

.....

FLOYD J. REED

APPENDIX D.

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

No: 445-371 **DIVISION "H"** **DOCKET 4**

JOHN R. HUGHES

versus

FRANK STANDIDGE & FRED JOURDAN

JUDGMENT

This cause came on for trial on January 15th & 16, 1968 by jury.

PRESENT:

FLOYD J. REED, Attorney for Plaintiff.

BEUKER F. AMANN and JACKSON P. McNEELY, Attorneys for Defendants.

And the following Jurors:

Ben H. Taylor
Frank Anthony Bellerino, Jr.
Walter John Batulis
Jay Windsor Howard
Sam Michel
Robert Paul Ballay
William Dexter Reese
Paul Julius Michel
Milton Paul Smith
Richard Alexander
John Arthur Johnson
Merlin M. Warden

Considering the verdict of the jury rendered herein, the law and the evidence being in favor of plaintiff and defendant Fred Jourdan;

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment herein in favor of the plaintiff, John R. Hughes and against the defendant, Frank Standidge in the full sum of $5,000.00, together with legal interest thereon from date of judicial demand until paid and for all costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there be judgment herein in favor of defendant, Fred Jourdan and against the plaintifff, John R. Hughes dismissing plaintiff's suit at plaintiff's cost.

JUDGMENT READ, RENDERED AND SIGNED IN OPEN COURT JANUARY 16th, 1968.

/S/ OLIVER P. CARRIERE
Judge.

APPENDIX E.

SUPREME COURT OF LOUISIANA
New Orleans, 70112

May 9, 1969

No. 49,768
John R. Hughes
versus
Frank Standidge

In re: John R. Hughes applying for certiorari, or writ of review to the Court of Appeal, Fourth Circuit, Parish of Orleans

Writ refused. On the facts found by the Court of Appeal we find no error in the judgment complained of.

/s/ FWS
/s/ JBF
/s/ JBH
/s/ EHMcC
/s/ JWS
/s/ MEB

HAMLIN, J., is of the view that the application should be granted.

A TRUE COPY, Clerk's Office, Supreme Court of Louisiana, New Orleans, May 9, 1969.

/s/ HAROLD A. MOISE, JR.
Deputy Clerk